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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/996,864	11/19/2001	Cheng-Ku Chen	67,200-600	4851

7590 08/12/2003

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EXAMINER

PHAM, LONG

ART UNIT PAPER NUMBER

2814

DATE MAILED: 08/12/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application N .

09/996,864

Applicant(s)

CHEN ET AL. *ht*

Examiner

Long Pham

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 8-16 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-7 and 17-20 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

1. Applicant's election without traverse of claims 1-7 and 17-20 in Paper No. 4 is acknowledged.

Drawings

1. Figure 1 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 2, 3, and 4-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Aminpur et al. (US '726).

With respect to claim 1, Aminpur et al. teaches a semiconductor device where during fabrication the semiconductor device comprises:
a primary layer 515 having a desired or specification or design dimension, fig. 5;
a lower layer 540 over the primary layer, fig. 5;

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an upper layer over the lower layer, the upper layer having a high-etching selectivity as compared to the lower layer, fig.5 and col. 6, lines 53-55.

With respect to claim 3, Aminpur et al. further teach the primary layer comprises of a polysilicon layer. See col. 5, lines 10-15.

With respect to claims 4-7, Aminpur et al. further teach the lower and upper layers are made of Si_3N_4 , SiON , or SiO_2 . See col. 5, lines 40-50.

With respect to claim 2, Aminpur et al. fail to teach a thin oxide layer or pad oxide is located between the lower or mask layer and the polysilicon gate or primary layer.

However, the formation of a pad oxide between two layers for preventing damage to the surface underlying layer, producing uniformity of surface of the underlying layer, or relieving stress is well-known to one of ordinary skill in the art of making semiconductor devices.

3. Claims 17, 18, 19, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Aminpur et al. (US '726).

With respect to claim 17, Aminpur et al. teaches a semiconductor device comprises:

a primary layer 515 having a critical dimension specification on a wafer 505;
a gate formed from the primary layer.

With respect to claim 18, Aminpur et al. fail to teach a thin oxide layer or pad oxide is located between the lower or mask layer and the polysilicon gate or primary layer.

However, the formation of a pad oxide between two layers for preventing damage to the surface underlying layer, producing uniformity of surface of the underlying layer, or relieving stress is well-known to one of ordinary skill in the art of making semiconductor devices.

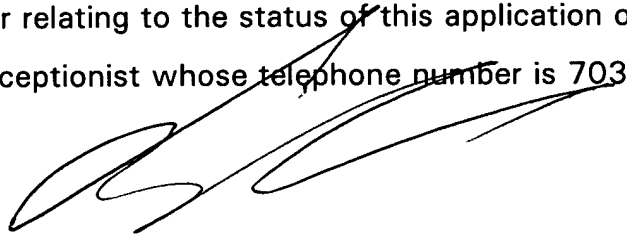
With respect to claims 19-20, Aminpur et al. further teach the lower and upper layers are made of Si_3N_4 , SiON , or SiO_2 . See col. 5, lines 40-50.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Long Pham whose telephone number is 703-308-1092. The examiner can normally be reached on M-F, 8:30AM-5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wael Fahmy can be reached on 703-308-4918. The fax phone numbers for the organization where this application or proceeding is assigned are 703-746-4082 for regular communications and 703-746-4082 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0956.



Long Pham
Primary Examiner
Art Unit 2814

L. P.

July 20, 2003